

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4
5 SUMMIT CANYON RESOURCES, LLC,

6 Plaintiff,

7 v.

8 GEORGE A. TANKSLEY, *et al*

9 Defendants.

Case No.: 2:15-cv-00656-RFB-VCF

**ORDER
STAYING CASE**

10 **I. Introduction**

11 On August 12, 2016, the Ninth Circuit issued its decision in Bourne Valley Court Trust v.
12 Wells Fargo Bank, 2016 WL 4254983 (9th Cir. Aug. 12, 2016). In this decision, the Ninth Circuit
13 declared Nevada's nonjudicial statutory foreclosure framework under Chapter 116
14 unconstitutional under the Due Process clause of the United States Constitution. The Ninth Circuit
15 has declined a rehearing *en banc*, and Appellees have indicated that they will seek *certiorari* at the
16 United States Supreme Court.

17 The ultimate resolution of this issue may have a dispositive effect upon this litigation, since
18 a due process challenge has been raised in this litigation. To avoid potentially unnecessary further
19 litigation, this Court stays this case pending the exhaustion of all appeals in Bourne. This Court
20 further denies all motions without prejudice to being refiled upon a lifting of the stay in this case.

21 **II. Discussion**

22 A district court has the inherent power to stay cases to control its docket and promote the
23 efficient use of judicial resources. Landis v. North American Co., 299 U.S. 248, 254–55 (1936).
24 When determining whether a stay is appropriate pending the resolution of another case, the district
25

1 court must consider: (1) the possible damage that may result from a stay, (2) any hardship or
2 inequity that a party may suffer if required to go forward, (3) and the orderly course of justice
3 measured in terms of the simplifying or complicating of issues, proof, and questions of law that a
4 stay will engender. Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066
5 (9th Cir. 2007)(citations omitted). Considering these factors in the context of this case, the Court
6 finds that a stay is appropriate.

7 **A. Damage From A Stay**

8 The Court finds there is minimal, if any, damage from a stay in this case. While there is a
9 potential damage in terms of the length of time to resolve this case should the Bourne panel's
10 decision be upheld, the significance or severity of this damage is negated by the fact that there
11 almost certainly would have been a full appellate process even if the decision had reached the
12 opposite result. This is to say that the appellate process would have had run its course for either
13 side to have the finality it seeks to have clear or encumbered title to the respective property
14 involved.

15 **B. Hardship Or Inequity**

16 The Court finds that there is no significant hardship or inequity that befalls one party more
17 than the other. This relatively equal balance of equities results from the need, as noted above, for
18 both parties to have finality in the appellate process in order to claim their title or interest in the
19 respective property.

20 The Court also finds that there would an equal hardship on both parties in terms of resources
21 expended if the Court did not stay this litigation. This hardship would arise from the various
22 motions and supporting briefs the parties would file to preserve their respective legal positions
23 regarding the ultimate decision in Bourne. By staying this case, the Court prevents this hardship
24 or expenditure for both parties.

